

§ 1.305-2

26 CFR Ch. I (4-1-01 Edition)

(2) For purposes of §§1.305-2 through 1.305-7, the term *shareholder* includes a holder of rights or warrants or a holder of convertible securities.

[T.D. 7281, 38 FR 18532, July 12, 1973; 38 FR 19910, July 25, 1973]

§ 1.305-2 Distributions in lieu of money.

(a) *In general.* Under section 305(b)(1), if any shareholder has the right to an election or option with respect to whether a distribution shall be made either in money or any other property, or in stock or rights to acquire stock of the distributing corporation, then, with respect to all shareholders, the distribution of stock or rights to acquire stock is treated as a distribution of property to which section 301 applies regardless of—

(1) Whether the distribution is actually made in whole or in part in stock or in stock rights;

(2) Whether the election or option is exercised or exercisable before or after the declaration of the distribution;

(3) Whether the declaration of the distribution provides that the distribution will be made in one medium unless the shareholder specifically requests payment in the other;

(4) Whether the election governing the nature of the distribution is provided in the declaration of the distribution or in the corporate charter or arises from the circumstances of the distribution; or

(5) Whether all or part of the shareholders have the election.

(b) *Examples.* The application of section 305(b)(1) may be illustrated by the following examples:

Example (1). (i) Corporation X declared a dividend payable in additional shares of its common stock to the holders of its outstanding common stock on the basis of two additional shares for each share held on the record date but with the provision that, at the election of any shareholder made within a specified period prior to the distribution date, he may receive one additional share for each share held on the record date plus \$12 principal amount of securities of corporation Y owned by corporation X. The fair market value of the stock of corporation X on the distribution date was \$10 per share. The fair market value of \$12 principal amount of securities of corporation Y on the distribution

date was \$11 but such securities had a cost basis to corporation X of \$9.

(ii) The distribution to all shareholders of one additional share of stock of corporation X (with respect to which no election applies) for each share outstanding is not a distribution to which section 301 applies.

(iii) The distribution of the second share of stock of corporation X to those shareholders who do not elect to receive securities of corporation Y is a distribution of property to which section 301 applies, whether such shareholders are individuals or corporations. The amount of the distribution to which section 301 applies is \$10 per share of stock of corporation X held on the record date (the fair market value of the stock of corporation X on the distribution date).

(iv) The distribution of securities of corporation Y in lieu of the second share of stock of corporation X to the shareholders of corporation X whether individuals or corporations, who elect to receive such securities, is also a distribution of property to which section 301 applies.

(v) In the case of the individual shareholders of corporation X who elects to receive such securities, the amount of the distribution to which section 301 applies is \$11 per share of stock of corporation X held on the record date (the fair market value of the \$12 principal amount of securities of corporation Y on the distribution date).

(vi) In the case of the corporate shareholders of corporation X electing to receive such securities, the amount of the distribution to which section 301 applies is \$9 per share of stock of corporation X held on the record date (the basis of the securities of corporation Y in the hands of corporation X).

Example (2). On January 10, 1970, corporation X, a regulated investment company, declared a dividend of \$1 per share on its common stock payable on February 11, 1970, in cash or in stock of corporation X of equivalent value determined as of January 22, 1970, at the election of the shareholder made on or before January 22, 1970. The amount of the distribution to which section 301 applies is \$1 per share whether the shareholder elects to take cash or stock and whether the shareholder is an individual or a corporation. Such amount will also be used in determining the dividend paid deduction of corporation X and the reduction in earnings and profits of corporation X.

[T.D. 7281, 38 FR 18532, July 12, 1973]

§ 1.305-3 Disproportionate distributions.

(a) *In general.* Under section 305(b)(2), a distribution (including a deemed distribution) by a corporation of its stock or rights to acquire its stock is treated as a distribution of property to which